

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	CRIMINAL CASE 1:05-MJ-_____
)	
ABHAY VIVEK AGGROIA, MD,)	
Defendant.)	

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

I, DANA CRANE, being duly sworn, depose and state as follows:

1. From 1985 to the present, I have been employed with the Virginia State Police ("VSP"). Since 1989, and at various times, I have been a Special Agent with the VSP. Since 1990, I have assisted and been involved in the investigation of prescription drug trafficking crimes by doctors, pharmacists, patients, dealers, and abusers. Since 1990, I have assisted the Virginia Department of Health Professions and the Virginia Board of Medicine in investigating illegally prescribed and diverted pain medications. During my employment with the VSP, I have also investigated street-level drug crimes, homicides, and terrorist activities. Since 1985, I have received extensive training in the investigation of drug trafficking crimes, including the illegal dissemination and distribution of pain medication. At present, I am assisting federal authorities in an Organized Crime and Drug Enforcement Task Force ("OCDETF") investigation

(Operation "Cotton Candy"), which has been focusing on the illegal dispensing, diversion, and distribution by about 60-80 targets of pain medication, including the highly-potent and widely-abused oxycodone, also known as "Percocet," "OxyContin," "Oxy," "O.C.," "Hillbilly Heroin," "Killer," and "Coffin." Oxycodone and other Schedule II drugs have a well-known potential for substantial abuse and can be crushed and snorted or dissolved and injected to get an immediate high. This abuse can lead to addiction and overdose, and, sometimes death.

2. My affidavit is submitted in support of a criminal complaint and arrest warrant for defendant ABHAY VIVEK AGGROIA, MD. The complaint and warrant charge the defendant with knowingly, intentionally, and unlawfully distributing and dispensing a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, not for a legitimate medical purpose and beyond the bounds of medical practice, to a known female ("Patient A"), in violation of 21 U.S.C. § 841(a)(1).

3. The facts and information contained in this affidavit are based upon my personal knowledge of the investigation as well as the observations of other law enforcement officers involved in this investigation. All observations that were not personally made by me were related to me by the person(s) who made such observations. In addition, I have interviewed Patient A.

4. This affidavit contains information necessary to support probable cause for this application. The affidavit is not intended to include each and every fact and matter observed by me or known to the government.

5. Since July 1997, the defendant (age 51) has been licensed to practice medicine in the Commonwealth of Virginia. The defendant participates in the Virginia Medicaid and the federal Medicare programs. In 1979, the defendant graduated from the Medical College Rohtak in India. In 1996, the defendant completed his residency with the Virginia Commonwealth University School of Medicine, Richmond, Virginia. The defendant specializes in internal medicine.

6. During 2004 to the present, in Woodbridge, Virginia, within the Eastern District of Virginia, the defendant has maintained a medical office ("office") where he would examine and treat Medicaid and Medicare patients.

7. During in or about June 2004 to January 2005, in his office on numerous occasions, the defendant examined, treated, and sexually exploited Patient A, who was referred to him by Virginia Medicaid. Patient A had chronic back and neck pain from an automobile accident, for which she received prescriptions for Percocet pills from the defendant. The defendant and Patient A met in his office for medical visits and sexual activity every one to two weeks. Because of a growing addiction from Percocet,

Patient A asked for and received several early refills of Percocet prescriptions from the defendant.

8. In or about June 2004, during her first office visit, the defendant used a stethoscope to allegedly examine Patient A's heartbeat. During the "exam" of her heartbeat, the defendant pulled Patient A's shirt out and rubbed his arm on both of her breasts. Patient A had never had a doctor perform such an exam in this aggressive a manner. Moreover, the defendant had Patient A roll down her pants. The defendant then rolled down her panties to hip level and asked her to bend over. The defendant then pulled her towards him and leaned on her from behind like they were having sexual contact. At the end of this first exam, the defendant issued Patient A a one-week prescription for 90 (5 mg) Percocet pills. Patient A quickly became overly dependant, if not addicted, to the Percocet, for which she would regularly receive prescriptions (each for 60-90 (5-10 mg) pills) from the defendant at the end of her visits in the office.

9. In or about one week after the first medical visit in his office, the defendant met with Patient A, but, the defendant did not examine her. He asked her to pull her pants down again. He then pulled her panties down and ran his fingers from the top of her spine to her tailbone. He then pulled her to him and rubbed his penis against her while he had his pants on. The defendant did not fondle her breasts during this visit. At the

end of this second visit, the defendant issued Patient A a one-week prescription for 90 (5 mg) Percocet pills. Shortly, Patient A became highly addicted to the Percocet pills.

10. In or about the first month she was a patient, the defendant's and Patient A's sexual activity increased from rubbing and "fingering her" (digitally penetrating her vagina). In or about the first month, the defendant advised Patient A that if she wanted more Percocet pills, then she had to provide "more" for him. When she asked him exactly what "more" meant, the defendant replied in blunt and graphic terms that he wanted oral sex: "I want you to suck my dick." Because of her addiction, Patient A began performing oral sex upon the defendant during each weekly and bi-weekly visit in his office within the last four months, if not more. While she was performing oral sex on him, the defendant would make very crass and crude comments to her. After each visit, he would issue a prescription for pills. In front of office staff and after one such sexual visit, the defendant handed her a prescription, secretly winked to Patient A, and stated: "This is the last one."

11. During at least the last couple of months of office visits, the defendant explicitly brought up in graphic terms the subject of sexual intercourse. They discussed and planned to have two such encounters either in the office (after hours), in her home, or in a hotel. They never had intercourse.

12. During at least the last couple of months of office visits, the defendant told the defendant that the "DEA" (i.e., Drug Enforcement Administration) was investigating him. He gave her on several occasions partially complete prescriptions, which included all necessary information filled out by him yet had a blank line for a name. She filled out the blank line and later presented the prescriptions to pharmacies. The prescription pills continued to feed her severe addiction.

13. On or about July 21, 2005, in his office, the defendant and I had a conversation about Patient A's treatment. Although the meeting was noncustodial, I read him his Miranda rights, which he voluntarily waived. The defendant acknowledged that he had received oral sex from Patient A. He later signed a statement: "[Patient A] was my patient for pain treatment. I prescribed her pain medications (Percocet) for some time [and] tried to wean her off. During our relationship[,] there was some inappropriate physical contact."

14. Based on my training and experience with the VSP, including my assisting the Virginia Department of Health Professions and the Virginia Board of Medicine, the defendant's prescriptions to Patient A were not for a legitimate medical purpose and were beyond the bounds of medical practice.

15. Based upon the foregoing, there is probable cause to believe that from in or June 2004 to January 2005, in Woodbridge,

Virginia, within the Eastern District of Virginia, defendant ABHAY VIVEK AGGROIA, MD, knowingly, intentionally, and unlawfully distributed and dispensed a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, not for a legitimate medical purpose and beyond the bounds of medical practice, to Patient A, in violation of 21 U.S.C. § 841(a)(1).

DANA CRANE
SPECIAL AGENT, VIRGINIA STATE POLICE

Sworn and subscribed to before me
this Thursday 28 July 2005.

THE HONORABLE T. RAWLES JONES, JR.
United States Magistrate Judge